

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL ANDREW CUELLAR,

Defendant.

CR 21–42–BLG–DLC

ORDER

United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendation in this matter on August 12, 2021. (Doc. 44.) Neither party objected and therefore they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan recommends that this Court accept Defendant Michael Andrew Cuellar’s guilty pleas after Cuellar appeared before him pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and entered a guilty plea to one count of

bank fraud, in violation of 18 U.S.C. § 1344 (Count VII), one count of aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1) (Count XIII), and one count of theft of mail, in violation of 18 U.S.C. § 1708 (Count XVIII), as set forth in the superseding indictment. Reviewing for clear error, the Court finds none.

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendation (Doc. 44) is ADOPTED in full.

IT IS FURTHER ORDERED that Cuellar's motion to change plea (Doc. 36) is GRANTED and Cuellar is adjudged guilty as charged in Counts VII, XIII, and XVIII of the superseding indictment.

DATED this 30th day of August, 2021.



Dana L. Christensen, District Judge
United States District Court